seems to have been the only case involving the precise question and supporting the doctrine adhered to in the former. A dissenting opinion in *Horton* v. *State, supra,* contends for application of the majority rule.

WILLS—LIMITATION REPUGNANT TO DEVISE IN FEE.—Where land was devised to a daughter of testator, to her heirs and assigns forever, with authority to sell or dispose of the whole or any part of it, and if daughter should die without children, then said estate, "or any part or portion" thereof which she "shall leave" shall vest in the defendants. *Held,* such devise gave the daughter a fee simple with absolute power of disposition, and the limitation over is void as inconsistent with the rights of the daughter as holder of such fee. *Bennett* v. *Association to Provide and Maintain a Home for the Friendless* (N. J. 1911), 81 Atl. 1098.

The court concluded the testator intended to give the daughter a fee simple with absolute and unlimited power of disposition, and not merely an estate for life. An unqualified bequest is not reduced to a life estate merely by a further provision that *whatever remains* at the death of the legatee shall vest in others. *Rozell* v. *Thomas,* (Tenn. Ch. App.) 39 S. W. 350; *Browning* v. *Southworth,* 71 Conn. 224, 41 Atl. 768. The devise in the principal case was absolute. It gave the property to the daughter without limitation or qualification. Therefore the gift over upon the death of the daughter without children is void. The gift over was not of the *entire* legacy, which would perhaps have qualified the original gift and made it a gift for life, but is of "any part or portion of the same * * * as she may leave at her decease." It is elementary that a fee cannot be limited upon a fee. MINOR, REAL PROP., § 737; 2 WASHBURN, REAL PROP., Ed. 5, 589; *Robertson* v. *Hardy's Admr.,* (Va.) 23 S. E. 766; *Wolfer* v. *Hemmer,* 144 Ill. 554, 33 N. E. 751. The unlimited power of disposition involves the idea of absolute ownership. Where there is an absolute power of disposition, a limitation over is held to be inconsistent with the exercise of such power, and is therefore void. 4 KENT, COM., Ed. 13, 199; *Robertson* v. *Hardy's Admr., supra; Ramsdell* v. *Ramsdell,* 21 Me. 288. After devising an estate in fee a limitation over of that which remains at the death of holder of such fee has been held void in *Appeal of McKenzie,* 41 Conn. 607, 19 Am. Rep. 525; *Wilson* v. *Turner,* 164 Ill. 398, 45 N. E. 820. The court in the principal case affirms the doctrines laid down in *Downey* v. *Borden,* 36 N. J. L. 460; *Rodenfels* v. *Schumann,* 45 N. J. Eq. 383, 17 Atl. 688; *McCloskey* v. *Thorpe,* 74 N. J. Eq. 413, 69 Atl. 973; *Tuerk* v. *Schueler,* 71 N. J. L. 331, 60 Atl. 357; *Annin's Ex'r.* v. *Van Doren's Admr.,* 14 N. J. Eq. 135. The cases of *Wooster* v. *Cooper,* 53 N. J. Eq. 682, 33 Atl. 1050 and *Tooker* v. *Tooker,* 71 N. J. Eq. 513, 64 Atl. 806, are distinguishable in that in those cases the court expressly found there was no intent to convey a fee and therefore the limitations over therein were valid.